



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 22, 1998

Ms. Linda Storey Mahar  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR98-1715

Dear Ms. Mahar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116863.

The Harris County Health Department (the "department") received an open records request for "the report of inspection conducted this week at El Tejano restaurant." You contend that the requested report is made confidential under section 81.046 of the Health and Safety Code and therefore must be withheld from the public pursuant to section 552.101 of the Government Code.<sup>1</sup>

Chapter 81 of the Health and Safety Code, of which section 81.046 is a part, is commonly referred to as the Communicable Disease Prevention and Control Act. Under section 81.042, various individuals, including health professionals, school and child care administrators, and owners and managers of food handling or processing establishments, are required to make reports to the "local health authority" of instances of suspected cases of "reportable diseases," including communicable diseases, and "health conditions." Section 81.046 of the Health and Safety Code provides in pertinent part:

(a) Reports, records, and information furnished to a health authority or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under

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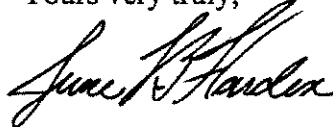
<sup>1</sup>Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

[the Open Records Act] and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 is confidential and may not be released unless an exception set out in the statute applies. Assuming that all of the information you have submitted to this office as responsive to the open records request was gathered or created by the department pursuant to the provisions of chapter 81, we agree that section 81.046(b) governs the release of this information.<sup>2</sup> We therefore conclude that the department must withhold the documents you submitted to this office in their entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/ch

Ref: ID# 116863

Enclosures: Submitted documents

cc: Ms. Norma Gleason  
Fox 26 KRIV Houston  
4261 Southwest Freeway  
Houston, Texas 77027-2600  
(w/o enclosures)

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<sup>2</sup>None of the conditions laid out in subsections (c) or (d) appear to be present in this instance.